

A normal working day shall mean eight hours of work. There shall be six (6) working days in a week. No work during Sundays and other locally recognized holidays and during night shall be carried out by the Contractor without the written permission of the Engineer. With the exception that, when the carrying out the work is unavoidable or necessary for the saving of life or property or for the safety of the erection work, the Contractor shall carry out such work and shall immediately inform the Purchaser / Engineer to that effect.

41.8 Supply of Installation Equipment, Materials and Labour

Unless otherwise provided in the Contract, the Contractor at his own expenses shall supply all Installation, erection and transportation equipment, tools, materials and labour and all other things of every kind necessary for the due fulfilment of the Contract.

41.9 Delay in Obtaining Materials from Purchaser

If the Purchaser has undertaken to supply any material specified in the Contract at rates and conditions stated therein, the Contractor shall keep himself in touch with the day to day position regarding the supply of materials by the Purchaser and shall so adjust the progress of the Work that his labour may not remain idle nor may there be any other claim due to or arising from delay in obtaining the materials. No claim whatsoever shall be admissible by the Purchaser on account of delay in supplying materials, if any.

41.10 Purchaser's Installation and Transportation Equipment

The Purchaser may at his discretion give on hire to the Contractor installation and/or transportation equipment, if available, for the use of the Contractor (but without prejudice to the Contractor's obligations under Clause 41.8 hereof) during the execution of the work on such terms as may be specified in the Contract or in a separate agreement for Hire of plant. The Contractor shall take all reasonable care of all such equipment belonging to the Purchaser but committed to his charge and shall be responsible for all damage or loss caused to such equipment while they are in his charge. On completion of the Contract or at its termination for any reason whatsoever or at any earlier occasion as required by the Purchaser, the Contractor shall return all such equipment to the Purchaser in good order and repair, wear and tear expected, and shall be entirely responsible for any failure to account for the same or any damage done thereto.

41.11 Return of Surplus Materials

Notwithstanding anything contained to the contrary anywhere in this Contract, wherever any materials for the execution of the work are procured with the assistance of the Purchaser, either by issue from the Purchaser's stocks or purchase made under orders or permits or license issued by the Purchaser, the Contractor shall use the said materials economically and solely for the purpose of the work and shall not dispose of them without the written permission of the Purchaser and shall return to the Purchaser all such surplus serviceable materials that may be left with the Contractor after the completion of the Contract or at its termination for any reason whatsoever, on being paid for or credited such price as the Purchaser shall determine, having due regard to the initial cost and the condition of the materials at the time of such return thereof. The price to be

allowed to the Contractors however shall not exceed the amount charged to him, excluding the storage charge if any. The decision of the Purchaser in this regard shall be final and conclusive. In the event of a breach of the aforesaid condition, the Contractor shall (in addition to making himself liable for action for contravention of the terms of the license or permit and/or for criminal breach of trust) be liable to the Purchaser for payment of double the cost the material not returned as determined by the Purchaser plus all money, advantages of profits resulting or which in the usual course would have resulted to him by reason of such breach.

41.12 Accident or Injury to Workmen

41.12.1 The Contractor shall be solely liable for any accident or injury that may happen to any of his personnel engaged in connection with the installation work according to the Contract within the battery limit. The Purchaser shall not be liable for or in respect of any damage or compensation payable at law in respect of or in consequence of any accident or injury to any personnel in the employment of the Contractor and the Contractor shall indemnify and keep indemnified the Purchaser against all such claims, damages, compensations and proceedings.

41.12.2 The Contractor shall forthwith report to the Engineer all cases of accidents to any of his personnel and shall make every arrangement to render all possible assistance and aid to the victims of the accident.

41.13 Compliance with Statutory and other Regulations

41.13.1 The Contractor shall, in all matters arising in the performance of the Contract, confirm at his own expense with the provisions of all Central or State statutes, ordinances or laws and the rules, regulations, or bye-laws of any local or other duly constituted authority and shall keep the Purchaser indemnified against all penalties and liabilities of every kind for breach of any such statute, ordinance, law, rule, regulation or bye-law.

41.13.2 The Contractor shall give all notices and pay all fees and taxes required to be given or paid under any Central or State statutes, ordinances or other laws or any regulation or bye-laws of any local or other duly constituted authority in relation to the Installation work except where the Purchaser is statutorily required to obtain such approvals / clearance.

41.14 Payment of Taxes for Foreign Personnel

The Contractor shall pay all taxes due in India in respect of all personnel employed by him for Installation work, including any foreign personnel who are non-residents of India as detailed under the Contract.

41.15 Work Permits, Passports etc.

The Contractor shall be responsible for arranging and obtaining at his own cost the necessary work permits, passports, visas, police permits and expenses for custom's duty related to personal

and other effects of any personnel employed by him for Installation work, who are non-residents of India. Purchaser shall make all necessary efforts in order to help the Contractor in doing so.

41.16 Travelling Expenses

All travelling expenses for the Contractor's personnel shall be borne by the Contractor.

41.17 Labour Rules

41.17.1 Provisions of Contract Labour Act

In respect of all labour, directly or indirectly, employed by the Contractor for the Installation work, the Contractor shall comply with the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, or any amendment thereof, and all legislations and rules of the State and/or Central Government or other local authority, framed from time to time governing the protection of health, sanitary arrangements, wages, welfare and safety for labour employed on the Installation work. The rules and other statutory obligations with regard to fair wages, welfare and safety measures, maintenance of registers etc., will be deemed to be part of the Contract.

41.17.2 Provisions of Minimum Wages and Payment of Wages Act

- (i). The Contractor shall comply with the provisions of the Minimum Wages Act, 1948, the Payment of Wages Act, 1936, Provident Fund and Miscellaneous Provisions Act 1972, Employees State Insurance Act 1948, and any amendment thereof in respect of all employees employed by him for the purpose of carrying out the Installation work. The Contractor shall supply to the Purchaser any labour required to work wholly or partly under the direct order and control of the purchaser, whether in connection with any work being executed by the contractor or otherwise for the purpose of purchaser, and such labour shall for the purpose of this clause still be deemed to be persons employed by the Contractor.
- (ii). If any amount shall, as a result of any claim or application made under the said applicable laws, be directed to be paid by the Purchaser, such, amounts shall be deemed to be amounts payable to the Purchaser by the Contractor. On failure by the Contractor to repay the Purchaser, any amounts paid by the Purchaser as aforesaid, within seven (7) days of demand being made from the Contractor, the Purchaser shall be entitled to recover the same from any amounts due or accruing to the Contractor under this or any other contract with the Purchaser.
- (iii). In the event of the retrenchment of workers by the Contractor or Sub-Contractors employed by the Contractor during or after the completion of the Work, the retrenchment compensation and other benefits will be paid by the Contractor to the workers as per the Industrial Disputes Act.

41.17.3 Provisions of Employee Compensation Act

The Contractor shall at all times indemnify and keep indemnified the Purchaser against all claim for compensation under the provision of the Employee Compensation Act, 1923 or any other law for the time being in force and as amended from time to time, in respect of, any workman employed by the Contractor in carrying out of the Contract and against all costs and expenses or penalties incurred by the Purchaser in connection therewith. In every case in which, by virtue of the provisions of Section 12, sub-section (1) of the Employee Compensation Act, 1923, the Purchaser is obliged to pay compensation to a workman employed by the Contractor in executing the contract the Purchaser shall recover from the Contractor the amount of the compensation so paid and, without prejudice to the rights of the Purchaser under Section 12, sub-section (2) of the said Act, the Purchaser shall be at liberty to recover such amount or any part thereof deducting it from the security deposit or from any sum due by the Purchaser to the Contractor whether under this Contract or otherwise. The Purchaser shall not be bound to contest any claim made against him under Section 12, sub-section (1) of the said Act, except on the written request of the Contractor and upon his giving to the Purchaser full security for all costs for which the Purchaser might become liable in consequence of contesting such claim.

41.17.4 Accommodation for Contractor's Staff

No quarters shall normally be provided by the Purchaser for the accommodation of the Contractor or any of his staff employed in connection with the Installation work. In exceptional cases where accommodation is provided to the Contractor at the Purchaser's discretion, recoveries shall be made at such rates as may be fixed by the Purchaser towards the rent of the building and furniture and fittings, if any, therein, as well as charges for electric current, water supply and conservancy.

41.17.5 Accommodation for workmen

The Contractor shall, at his own expense, make adequate arrangement for housing, supply of drinking water and provision of toilets for his staff and labour and disposal of sewerage. Suitable sites on the Purchaser's land, if available, may be allotted to the Contractor for the installation of camp site on such terms and conditions as may be prescribed by the Purchaser. All camp-sites shall be maintained in clean and sanitary condition by the Contractor at his own cost.

The Contractor shall comply with all sanitary rules in force and carry out all sanitary measures and permit inspection of all sanitary arrangement at all reasonable times by the Purchaser. Should the Contractor fail to make adequate sanitary arrangements, these will be provided by the Purchaser and the cost thereof shall be recovered from the Contractor.

41.17.6 Preservation of Peace

The Contractor shall take requisite precautions and use his best endeavour to prevent any riotous or unlawful behaviour by or amongst, his workmen and/or others employed by him and for the preservation of peace and protection of the inhabitants and security of property in the neighbourhood of the Site. In the event of the Purchaser requiring the

maintenance of a special police force at or in the vicinity of the Site during the tenure of the Contract, in consequence of the riotous or unlawful behaviour by or amongst the Contractor's workmen and/or others employed by him, all expenses thereof and costs of all damages due to such riotous or unlawful behaviour shall be borne by the Contractor, and, if paid by the Purchaser, shall be recoverable from the Contractor from any moneys due or that may become due to the Contractor by the Purchaser. The Contractor also undertakes to indemnify and hold harmless the Purchaser against any claims on such account.

41.17.8 *Infectious Diseases*

The Contractor shall remove from his camp site such labour and their families who refuse protective inoculations and vaccinations when called upon to do so by any competent authority. In the event of any breakout of infectious disease in the camp site, the Contractor undertakes to forthwith provide for all medical facilities and assistance and take all possible steps to prevent spread of such disease and also discard and destroy all belongings of and used materials by the infected parties and promptly arrange new accommodation in healthy sites as may be required by the labour and employees of the Contractor.

41.17.9 *Medical Facilities at Site & health & safety*

The Contractor shall provide medical facilities at the Site as per rule in force in relation to the strength of the Contractor's staff and workmen. The Contractor shall at all times take all reasonable precaution to maintain the health and safety of its personnel, employees and workmen. The Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance facilities/services are available at all times at the Site and suitable arrangements are made for all necessary welfare and hygiene requirements and for prevention of epidemics. The Contractor shall also appoint an accident prevention officer at the Site responsible for maintaining safety and protection against accidents.

41.17.10 *Use of Intoxicants*

The sale, use & consumption of alcohol or other intoxicating beverages in the Site or in any of the buildings, encampments or tenements owned, occupied by, or within the control of the Contractor or any of his employees or Sub-Contractors is forbidden, and the Contractor shall secure strict compliance with this condition.

41.17.11 *Age Limits of Labour*

The Contractor shall not employ children below the age of 18 as labourers for the Installation work.

41.17.12 *Observance by Sub-Contractor*

The Contractor shall be responsible for the observance of the provisions of Clauses 41.17.1 to 41.17.11 hereof by any Sub-Contractor(s) employed by him in the execution of the Contract.

41.17.13 *Contractor's personnel*

The Contractor's personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Engineer/Purchaser may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's representative if applicable, who: (i) persists in any misconduct or lack of care, (ii) carries out duties incompletely or negligently, (iii) fails to conform with any provisions of the Contract, or (iv) persists in any conduct which is prejudicial to safety, health, or the protection of the environment. If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

41.18 Time of Completion for Installation Work and Delays

41.18.1 *Date of Commencement of Installation Work*

The date of commencement for the Installation work shall be reckoned from the dates on which the Contractor is given possession of the Site to commence Installation, which will be intimated to him in writing by the Purchaser and shall be as per the Bar/Pert Chart attached to the Contract Specifications.

41.18.2 *Possession of Site*

In terms of the Contract, the extent of portions of the Site of which the Contractor is to be given possession from time to time and the order in which such portion shall be made available to him, and subject to any requirement in the Contract to the order in which the Installation work shall be executed, the Purchaser will give to the Contractor possession of as much of the Site as may be required to enable the Contractor to commence and proceed with the Installation work. This will be in accordance with the programme referred to in Clause 41.5.1 hereof and otherwise in accordance with such reasonable proposals of the Contractor as he shall give by notice in writing to the Purchaser / Engineer. The Purchaser, will from time to time, as the work proceeds, give to the Contractor possession of such further portions of the Site as may be required to enable the Contractor to proceed with the Installation work, in accordance with the said programme or proposals (as the case may be). If the Contractor suffers delay from failure on the part of the Purchaser to give possession in accordance with the terms of this clause, the Purchaser shall grant an extension of time for the completion of the work. No compensation will be payable by the Purchaser for any such failure and delay.

41.18.3 *Time of Completion for Installation Work*

Time is the essence of the Contract. The whole of the work, including conducting performance tests to demonstrate performance guarantees according to the Contract shall

be completed within the time stipulated in the Contract, which shall be reckoned from the date of the commencement of the Installation work in accordance with Clause 41.18.1 hereof. Execution times indicated in the Contract are based on the assumption that the Site will be handed over to the Contractor free of obstacles and all other preconditions for installation of the material delivered are fully met.

41.18.4 *Extension of Time of Completion for Installation Work*

Save and except elsewhere provided in the Contract, should the amount of additional work of any kind or other circumstances of any kind whatsoever, which may occur, be such as fairly to entitle the Contractor to an extension of time for the completion of the Installation work, the Purchaser shall discuss and determine the period of such extension mutually with the Contractor.

41.18.5 *Rate of Progress*

The whole of the materials, plant, machinery, equipment and labour to be provided by the Contractor and the mode, manner and speed of execution of the Installation work are to be of a kind, and conducted in a manner, as per time schedule. Should the rate of progress of the Installation work be at any time, in the opinion of the Engineer / Purchaser, too slow to ensure the completion of the Work by the prescribed time or extended time for completion, the Purchaser / Engineer shall so notify the Contractor in writing, and the Contractor shall thereupon take such steps, as he may think necessary and the Purchaser / Engineer may approve, to, expedite the progress so as to complete the entire Installation work by the prescribed time or extended time for completion. If the Contractor shall request permission to work by night as well as by day, then if the Engineer shall grant permission to work also by night, then the Contractor shall not be entitled to any additional payment whatsoever for so doing but, if such permission is refused and there is no equivalent practicable method of expediting the progress of the work, the time for completion of the Installation work may be extended by the Purchaser by such period if any, as is solely attributable to such refusal and deemed proper by the Purchaser / Engineer.

41.18.6 *Night work without disturbance*

If work at night is permitted as aforesaid it shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify the Purchaser from, and against, any liability for damage on account of noise or other disturbance created while, or in carrying out the Installation work, and from, and against, all claims, demands, proceedings, damages costs, charges and expenses whatsoever in regard to or in relation to, such liability.

41.18.7 *Liquidated damages due to Delay in Completion*

- (i) If the Contractor fails to deliver as per the time schedules or complete the commissioning of the Project within the Time for Completion specified in the

Contract or any extension thereof (allowed without Liquidated Damage) due to reasons attributable to the Contractor including its Sub-Contractors, the Purchaser shall be entitled to recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the Contractor's account lying with the Purchaser and if the amount to be deducted is not sufficient or available then by encashment of Contractor's Bank Guarantees, at the rate of 1% of the Contract Price, specified in the Contract , including taxes, duties, levies, cess, etc. per complete week of delay or part thereof up to a maximum of 10% of such Contract Price including taxes, duties, levies, cess, etc.

In case, the Contractor is a Consortium, the Purchaser shall recover the amount of Liquidated Damages, but not by way of penalty, by making deductions from the account of the lead member of Consortium and if the amount is not available then as a last resort by encashment of their Bank Guarantees, at the rate of 1% of the Contract Price, specified in the Contract , including taxes, duties, levies, cess, etc. per complete week of delay or part thereof up to a maximum of 10% of such Contract Price including taxes, duties, levies, cess, etc.

- (ii) Any recovery of Liquidated Damages shall be effected from the amount payable to the Contractor against Commissioning, Performance Guarantee Test, Final Acceptance Certificate and Performance Bank Guarantee.
- (iii) The Purchaser may, without prejudice to any other method of recovery, deduct the amount of such damages from any amounts in his hands due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligations to complete the work or from any other of his obligations and liabilities under the Contract.

41.19 Safety, Watching and Lighting

41.19.1 The Contractor shall be responsible for the provision of safety arrangement and protective clothing for all his workmen on Site whether or not engaged in actual Installation work thereof. He shall ensure that all his workmen on Site use safety belts, gloves, helmets, masks etc. as are necessary for their safety. The Contractor shall also be responsible for safety arrangement of all equipment used by him in connection with the installation and transportation work and shall employ only trained & competent operators to man the installation and transportation equipment. The Contractor shall use only tested equipment, tools, wire ropes etc. and shall periodically renew tests to the satisfaction of the Engineer. All test certificates shall be made available to the Engineer at site as and when required by him.

41.19.2 The Contractor shall, in connection with the Installation work, provide and maintain at his own cost all lights, guards, fencing and watching, when and where necessary or required by the Engineer or by any duly constituted authority, for the protection of the work and/or for the safety and convenience of the public or others. The Contractor shall

provide at his own cost the necessary watch and ward to ensure security and safety of all equipment and materials placed under the Contractor's custody.

41.20 Security Regulations

The Contractor shall abide by all the security regulations at Site promulgated by the Purchaser from time to time. The Contractor shall provide identity badges for all his personnel which must be properly displayed by them at Site. In order to facilitate the issue of exit gate permits by the Purchaser for materials and equipment after the completion of the work, the Contractor shall submit to the Purchaser lists of installation equipment etc. and/or other materials that shall be taken by him inside the Site from time to time.

41.21 Care of Work

From the commencement to the completion of the installation work the Contractor shall take full responsibility for the care of plant, machinery and equipment and for all temporary works and in case any damage or loss shall happen to the plant, machinery and equipment or to temporary works from any cause whatsoever shall at his own cost replace or repair and make good the same.

41.22 Damage to Persons or Property

The Contractor shall indemnify and keep indemnified the Purchaser against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of, or in consequence of, the work at site carried out by the Contractor and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

41.23 Extraordinary Traffic

The Contractor shall use every reasonable means to prevent any of the highways or bridges communicating with on the routes to the Site from being subjected to extraordinary traffic within the meaning of the Road Traffic Act, by any traffic of the Contractor or any of his Sub-Contractors and in particulars the Contractor shall select routes and use vehicles and restrict and distribute loads so that any such extraordinary traffic as will inevitably arise from moving of plant and materials from and to the Site shall be limited so far as reasonably possible and so that no unnecessary damage or injury may be occasioned to such highways and bridges. For any damage caused to highways or bridges by extraordinary traffic as aforesaid the Contractor shall be solely responsible.

41.24 Co-operation with other Contractors

The Contractor shall plan and execute his work in a phased manner as directed by the Purchaser from time to time and shall fully co-operate with other agencies working at site simultaneously and afford all responsible facilities to these agencies so as not to obstruct or retard the works simultaneously being executed by such agencies in any way.

41.25 Inspection of other Contractor's Works

If any part of the Contractor's work depends for proper execution on the Work of another contractor, the Contractor shall inspect and promptly report to Engineer/Purchaser, the defects, if any in such work that render it unsuitable for such proper execution and result. The Contractor's failure to so inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of his work, except as to defects which may develop in the other contractor's work after the execution thereof.

41.26 Vesting of Constructional / Erection Plant etc.

All constructional/erection plant, temporary works and materials owned by the Contractor, or by any company in which the Contractor has a controlling interest, shall, when brought on to the Site, immediately be deemed to become the property of the Purchaser.

41.27 Irremovability of Constructional/Installation, Materials etc.

No Constructional/erection plant, temporary works or materials or any part thereof shall be removed from the site by the Contractor without the written consent of the Purchaser, which consent shall not be unreasonably withheld where the same is no longer immediately required for the purpose of the completion of the work and the Purchaser will permit the Contractor the exclusive use of all such constructional/erection plant, temporary works and materials in and for the completion of the work until the occurrence of any events which gives the Purchaser the right to exclude the Contractor from the Site and proceed with the completion of the Work.

41.28 Removal of Constructional/Installation Materials

Upon the removal of any such constructional/erection plant, temporary works and materials as have deemed to have become the property of the Purchaser under Clause 41.26 hereof, with consent as aforesaid, the property therein shall be deemed to revert in the Contractor and upon the completion of the Work, the property in the remainder of such constructional/erection plant, temporary works, and materials as aforesaid shall be deemed to re-vest in the Contractor. If the Contractor fails to remove any constructional/erection plant, temporary works or materials as aforesaid, within such reasonable time after completion of the Work as may be allowed by the Purchaser, then the Purchaser may sell any such constructional/erection plant, temporary works and materials as aforesaid and after deduction from any proceeds of sales, the costs, charges and expenses of and in connection with such sale, shall pay the balance (if any) to the Contractor, but to the extent that the proceeds of any sale are insufficient to meet all such costs, charges and expenses, the excess shall be a debt due from the Contractor to the Purchaser and shall be deductible or recoverable by the Purchaser accordingly as aforesaid.

41.29 Purchaser not liable for Loss or Injury to Construction/Erection Plant

The Purchaser shall not at any time be liable for the loss of or injury to, any of the constructional / erection plant, temporary works or materials.

41.30 Work in or around an Operating Plant

When the work is being carried out in or around an operating plant, where the plant must run uninterrupted, the Contractor shall only work at specified places and times as mutually arranged between the Contractor and the Purchaser. The Contractor shall take sufficient care in moving his construction erection plant and equipment from one place to another in an operating plant so that they may not cause any damage to the property of the purchaser, like roads, overhead and underground cables, pipes and/or any other services or equipment or building and in the event of the contractor's failure to do so, the cost of such damages, including eventual loss of working hours as estimated by the Purchaser, is to be borne by the Contractor.

41.31 Site to be cleared on Completion of Work

During erection the Contractor shall at all times keep the working and storage areas used by him free from accumulation of waste materials and/or rubbish, immediately after the completion of erection, the Contractor shall remove or dispose of all temporary structures, waste, debris, rubbish etc. and leave the Site in a clean condition to the satisfaction of the Purchaser.

41.32 Possession Prior to Completion

The Purchaser shall have right to take possession of or use any completed or partially completed part of the Work. Such possession or use shall not be deemed to be in acceptance of any Work done not in accordance with the Contract.

41.33 Withholding Payment

The Purchaser will have full liberty to withhold and set off all sums due or to become due to the Contractor (including security deposit), whether under this or any other contract, against any sum due or to become due to the Purchaser from the Contractor under this or any other contract. The Purchaser also reserves the right to withhold the whole or part of the payment claimed by the Contractor which in the opinion of the Purchaser, is necessary to protect himself from loss on account of defective work not remedied, guarantees not met, claims filed against the Contractor, failure by the Contractor to make due payments for materials, labour employed by him, damages to other contractor etc. When grounds for withholding payments are removed to the satisfaction of the Purchaser, payment of the amount due to the Contractor shall be made by the Purchaser without interest.

41.34 Termination of Contract

The Purchaser, without prejudice to any other rights or remedies it may possess, may terminate the Contract in case of the Contractor's noncompliance of his undertakings and obligations under this Contract and more particularly but not limited to the following circumstances by giving notice of termination and its reasons thereof to the Contractor:

- (i) if the Contractor becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or if, the Contractor is a corporation, a resolution is passed

or order is made for its winding up (other than voluntary liquidation for the purpose of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Contractor takes or suffers any other analogous action in consequence of debt;

- (ii). if the Contractor assigns or transfers the Contract or any right or interest therein in violation of the terms of the Contract;
- (iii). if the Contractor
 - a) abandoned or repudiated the Contract; or
 - b) have an execution levied on his goods or property; or
 - c) has without any valid reasons to the satisfaction of the Purchaser failed to commence Work as provided in the Contract promptly or has suspended the progress of the Contract performance for more than 14 (fourteen) days after receiving a written instruction from the Purchaser to proceed; or
 - d) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract; or
 - e) Refuses or is unable to provide sufficient materials, service or labour and adequate resources to execute and complete the Work in the manner and progress rate as specified in the Contract.
- (iv). Unjustified and un-warranted interruption of services performed by the Contractor and such interruption occurred for more than 15 (fifteen) days without assigning any reason.
- (v). Errors, negligence, insufficiencies in the specifications and contractual work under execution, or failure to supply sufficient material or man-power as per Technical Specification or other similar circumstances affecting the quality of work for reasons attributable to the Contractor.
- (vi). If during the work, it appears that the design, specifications, recommendations supplied / provided by or through the Contractor do not conform to the terms and conditions of the Contract and good and sound current engineering or fabrication practices.
- (vii). If the Contractor disregards the instructions of the Purchaser in relation to the execution of the Installation work or refuses to implement instructions received from the Purchaser or Engineer within the stipulations of this Contract.
- (viii). If the Contractor promises, offers or gives any bribe, commission, gift or advantage, either by himself or through his agent, to any officer or employee of the Purchaser or Engineer or to any person on their behalf in relation to the execution of this Contract.

Then, in any of the aforesaid cases, the Purchaser may serve the Contractor with a notice in writing to that effect, and if the Contractor does not, within seven (7) days after the delivery to him of such notice, proceed to make good his default, , and carry on the work in compliance with such directions as stated in the aforesaid notice to the entire satisfaction of the Purchaser, the

Purchaser shall be entitled, after giving forty eight (48) hours` notice in writing to expel the Contractor from the Site without thereby avoiding the Contract or releasing the Contractor from any of his obligations or liabilities under the Contract or effecting the rights and powers conferred on the Purchaser by the Contract. The expiry of forty-eight (48) hours from the time of serving such notice in writing to the Contractor by the Purchaser shall be conclusive evidence of the expulsion of the Contractor from the Site, notwithstanding any physical presence of the Contractor or his workmen at Site after such expiry.

Upon receipt of termination hereof, the Contractor shall either immediately or upon such date as may be provided in the notice of termination:

- (i). cease all such work, except for such work as the Purchaser may specify in the said notice for the sole purpose of protecting that part of the Project already executed or any work required to leave the Site in a clean and safe condition;
- (ii). terminate all sub contracts except those to be assigned to the Purchaser pursuant to sub clause (iv) below;
- (iii). deliver to the Purchaser the parts of the work /Project executed by the Contractor up to the date of termination;
- (iv). to the extent legally permissible, assign to the Purchaser all rights, title and benefit of the Contractor in relation to the plant, machinery and equipment as at the date of termination and as may be required by the Purchaser, in any subcontracts concluded between the Contractor and its subcontractors;
- (v). deliver to the Purchaser all drawing and specifications and other documents prepared by the Contractor or its subcontractor as at the date of termination in connection with the work.

Upon such expulsion or termination, the Purchaser may himself complete the Installation work or may employ any other contractor to complete the Work at the risk and cost of the Contractor. In such case, the Contractor shall be liable for any costs for obtaining and /or executing the balance of the work from another agency/contractor in excess of the Contract price. In case of termination of part of the Contract, the Contractor will continue performance on the Contract to the extent not terminated by the Purchaser. The Purchaser or such other contractor may use for such completion so much of the constructional / installation plant, temporary works and materials which has become the property of the Purchaser or which is available on the Site pursuant to Clause 41.28 hereof as he or they may think proper. The Purchaser pursuant to Clause 41.28 is entitled at any time to sell any of the said constructional / installation plant, temporary works and unused materials and apply the proceeds of sale in, or towards, the satisfaction of any sums due or which may become due to him from the Contract or under the Contract. The Purchaser may to the exclusion of the right of the Contractor take over and use any Contractors equipment owned by the Contractor and on the Site in connection with the Work for such reasonable period as the Purchaser considers expedient for the supply and Installation of the Project. Provided always that the Purchaser shall at any time after expelling the Contractor from the Site, have the right to rescind this Contract and claim damages from the Contractor. Provided further that, the exercise of any of the rights aforesaid, shall not prejudice the Purchaser`s right and remedies under the law and under the Contract.

41.35 Waiver

Provided always that, in any case in which any of the powers conferred upon the Purchaser by Clause 41.34 hereof shall have become exercisable but have not been exercised, the non-exercise thereof shall not constitute a waiver of any of the conditions thereof, and such powers shall notwithstanding be exercisable by the Purchaser in the event of any future case of default by the Contractor for which his liability for past and future defaults shall remain unaffected. Further, if any condition of the Contract has been waived by the Purchaser at the request of the Contractor in a specific case this will not constitute a waiver in all similar cases in future and will not be cited as precedence.

41.36 Valuation on Determination

The Purchaser shall as soon as may be practicable, after such expulsion of the Contractor from the Site, fix and determine ex-parte or by, or after, reference to the parties or after such investigation or enquiries as he may consider fit to make or institute and certify the amount (if any) which had at the time of such expulsion been earned by or would accrue to the Contractor in respect of the erection work till then executed by him under the Contract, as the Purchaser shall consider reasonable and proper. The Contractor shall have however no claim to compensation for any loss sustained by him, by reason of his having purchased or procured any equipment materials or entered into any commitments or made any advances on account of, or with a view to, the execution of the erection work or the performance of the Contract.

41.37 Payment after Termination

If the Contractor is expelled as aforesaid, the Purchaser shall not be liable to pay to the Contractor any moneys, including the security deposit on account of the Contract, until the costs of the completion of the erection work, considering the cost of carrying out the erection work, either by the Purchaser itself or by any other contractor employed by it, in excess of the sum which would have been payable to the Contractor if the erection work had been completed by the Contractor under the terms of Contract, damages for the delay in completion (if any) and all other expenses incurred by the Purchaser have been ascertained. The Contractor shall then be entitled to receive only such sum (if any) as the Purchaser may certify after deduction of the said amount from the sum payable to the Contractor. But if such amount shall exceed the sum which would have been payable to the Contractor, then the Contractor shall, upon demand, pay to the Purchaser the amount of such excess, and it shall be deemed a debt due by the Contractor to the Purchaser and be recoverable accordingly.

41.38 Jurisdiction

The Contract and all questions, disputes or differences arising under or in connection with this Contract, subject to Arbitration clause, shall be subject to the exclusive Jurisdiction of the courts within the local limits of Telangana, India.

42.0 CONSTRUCTION OF CONTRACT

This Contract and the clauses thereof shall be interpreted and applied solely according their wording, to the objects in view. The Contract shall in all respects be construed and operated as a contract as defined in the Indian Contract Act, 1872, and, save as otherwise expressly provided herein, shall be governed by the provision of the said Act.

43.0 PENALTY FOR USE OF UNDUE INFLUENCE

The Contractor undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in services of the Purchaser or otherwise in procuring the Contract or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Government. Any breach of the aforesaid undertaking by the Contractor or any one employed by him or acting on his behalf (whether with or without the knowledge of the contractor) or the commission of any offence by the contractor or anyone employed by him or acting on his behalf, as defined in Chapter IX of Indian Penal Code, 1860 or the Prevention of Corruption Act, 1947 or any other Act enacted for the prevention of corruption shall entitle the Purchaser to cancel the contract and all or any other contracts with the contractor and recover from the contractor the amount of any loss arising from such cancellation. A decision of the Purchaser or his nominee to the effect that a breach of the undertaking has been committed shall be final and binding on the contractor.

Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the Contractor towards any officer/employee of the Purchaser or to any other person in a position to influence the decision of the Purchaser, directly or indirectly or any attempt to influence any officer/employee of the Purchaser, directly or indirectly or any attempt to influence any officer/employee of the Purchaser for showing any favour in relation to this or any other contract, shall render the Contractor to such liability/penalty as the purchaser may deem proper, including but not limited to termination of the Contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amount paid by the purchaser.

44.0 GENERAL

Should any conditions in the General Conditions of Contract be contrary to the Special Conditions of the Contract, if any, such special contract conditions shall prevail.

45.0 LIMITATION OF LIABILITY

Except in cases of criminal negligence or willful misconduct the aggregate liability of the Contactor to the Purchaser, whether under the Contract, in tort or otherwise, including the cost of repairing or replacing defective equipment shall not exceed the 100% (Hundred Percent) of the Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective plant and equipment or any obligation of the Contractor to indemnify the Purchaser with respect to copyright (applicable to software) patent infringement and Employee/workman compensation and other liabilities and compensation as per the clauses specified in the Contract.

46.0 LIABILITY OF GOVERNMENT OF INDIA

It is expressly understood and agreed between the Contractor and the Purchaser that the Purchaser is entering into this Contract solely on its own behalf and not on behalf of any other person or entity. In particular, it is expressly understood and agreed that the Government of India is not a party to this Contract and has no liabilities, obligations or rights hereunder. It is expressly understood and agreed that the Purchaser is an independent legal entity with power and authority to enter into e-contracts solely on its own behalf under the applicable laws of India and general principles of Contract Law. The Contractor expressly agrees, acknowledges and understands that the Purchaser is not an agent, representative or delegate of the Government of India. It is further understood and agreed that the Government of India is not and shall not be liable for any acts, omissions, commissions, breaches or other wrongs arising out of the Contract. Accordingly, the Contractor hereby, expressly waives, releases and foregoes any and all actions and claims, including cross claims, impleader claims or counter claims against the Government of India arising out of this Contract and covenants not to sue the Government of India in any manner, claim, and cause of action or thing whatsoever arising of or under this Contract.